

REMARKS

The 35 U.S.C. § 112 Rejections

The Examiner rejected claim 10 allegedly as being indefinite, noting that "Claim 10 recites the limitation 'the film surface' in line 2. There is insufficient antecedent basis for this limitation in the claim." In response, claim 10 has been amended to provide antecedent basis for "the film surface."

The 35 U.S.C. § 103 Rejections

The Examiner rejected claims 1-26 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,968,855 to Perdelwitz, Jr. *et al.* ("Perdelwitz") in view of U.S. Patent No. 4,323,069 to Ahr *et al.* ("Ahr"). The Applicant respectfully traverses and requests reconsideration of these rejections for at least the following reasons.

Claim 1

Regarding Claim 1, the Examiner asserts that

Perdelwitz discloses all aspects of the claimed invention with the exception of an apertured film disposed between the inner layer and the absorbent core. Perdelwitz discloses an absorbent article 10, as shown in figure 1, comprising a liquid impervious outer layer 12, a liquid pervious inner layer 16, and an absorbent core 14. The absorbent article has a 300 mL rewet under load of less than 1.25 g, as disclosed in column 9, lines 23-45 and table 2. It therefore follows that the rewet under load for only 200 mL would inherently be less than 1.25g as well.

Ahr discloses an absorbent article 10, as shown in figure 2, comprising a liquid impervious outer layer 14, a liquid pervious inner layer 12, and an absorbent core 16. The absorbent article 10 further comprises an aperture film 40 disposed between the inner layer 12 and the absorbent core 16, as disclosed in column 11, lines 35-38. The apertured film 40 comprises a liquid impermeable film surface and a plurality of protrusions extending towards the absorbent core 16, each protrusion terminating in an aperture 46, as shown in figure 5. The addition of the apertured film 40 improves the rewet value of the absorbent article 10 without reducing the strikethrough time, as disclosed in column 12, lines 58-62.

It would therefore be obvious to one of ordinary skill in the art at the time of the invention to construct the absorbent article of Perdelwitz with the apertured film of Ahr, in order to further reduce the rewet of the absorbent article without also reducing the strikethrough time.

First, the applicant submits that the rewet test method disclosed in Perdelwitz is significantly different from that which is employed to arrive at the results in the claims of the present invention. The test method of Perdelwitz is disclosed at column 9, lines 16 - 42, as summarized below in Table I. The test method in the present invention is disclosed on pages 15 - 17 of the application also summarized below in Table I. Some of the significant differences are bolded and italicized in the table below:

Table I: Comparison of Rewet Test Methods

| Perdelwitz Test Method | Present Invention Test Method |
|--|---|
| <u>Strikethrough Plate</u> 4" x 12" 1/21" thick 2"i.d. hole cut at 6" o.c. from leading edge 2"i.d. plexiglass tube protruding from hole full 2" i.d. opening to product total weight: 0.3 psi | <u>Strikethrough Plate</u> 100 mm square (~4" x 4") 25mm thick (~1") 25mm i.d. hole cut (~1") hole centered on plate tapered hole, (no tube) six-armed opening to product, six 9.5mm x 1.5mm slots (no weight specified) |
| <u>Placement</u> orifice centered 61" [?] from the leading bottom edge of the front waistband centered within the leg cuffs | <u>Placement</u> orifice placed over the <i>center</i> of <i>absorbent core</i> |
| <u>Insults</u> 1) initial - 100 mL (no weight / rewet) 2) 10 mins after initial 100 mL 3) 20 mins after initial <u>100 mL</u> Total: 300mL | <u>Insults</u> 1) initial 100 mL - 0.5 psi load for 10 minutes - rewet for 10 minutes 2) (~20 mins after initial) 100 mL - 0.5 psi load for 10 minutes - rewet for 10 minutes 3) (~40 mins after initial) <u>100 mL</u> - 0.5 psi load for 10 minutes - rewet for 10 minutes Total: 300mL |
| <u>Rewet Method</u> conducted 50 minutes after initial insult load: 4" x 4" weight - 0.5 psi 2 filter papers, 5" square (no weight specified) load / paper maintained for 2 minutes | <u>Rewet Method</u> conducted <i>after every insult</i> load: 2.5" x 2.5" weight - 0.5 psi for second rewet: 79g of filter paper for third rewet: 90g of filter paper load / paper maintained for 10 <i>minutes</i> |

Although there are several notable differences, perhaps the most significant differences involve the rewet method, which can dramatically affect the results. Perdelwitz discloses that after each insult, the product stands for 20 minutes, and the rewet is conducted 50 minutes after the initial insult; whereby the 0.5 psi load and filter papers remain on the product for *only 2 minutes*. In stark contrast, the method prescribed to arrive at the results reported in the claimed invention is more stringent. The test of the instant application was conducted *after each insult*, whereby the 0.5 psi load and the filter papers remain on the product for *10 minutes*. This time factor is critical to the results, as it allows the filter paper to be in contact with the wet core for a longer period of time, thereby increasing the ability of the paper to absorb free-liquids on the product.

In addition, the amount of filter paper directly affects the amount of fluid that may be absorbed. Paper has a finite capacity to absorb fluid, therefore the more paper used, the higher the capacity. After the capacity of the paper is reached, the paper will absorb no more fluid. The present invention prescribes 79g and 90g for the second and third insult, respectively. The Perdelwitz test method prescribes only 2 filter papers measuring 5" x 5". While the actual weight of the filter paper is not specified, filter paper inevitably weighs less than 79g or 90g.

Superficially (and without closer scrutiny), these two test methods might deceptively appear to be similar because they both involve three insults of 100 mL of fluid. However, the differences in the test methods are significant enough that different results would be obtained for the same test samples. For at least the reasons illustrated in the table above, the test results presented in Perdelwitz are not comparable to the results generated in the present invention. As such, Perdelwitz does not render obvious an absorbent article having the test result embodied in claim 1.

Second, Ahr discloses that an apertured film transfer layer may reduce the rewet of the product, but Ahr fails to disclose an apertured transfer layer that, when used in

absorbent article, will produce the rewet results embodied in claim 1. The applicant submits that it would not have been obvious to one of ordinary skill in the art to employ Ahr's apertured film in Perdelwitz. Perdelwitz was filed 17 years after Ahr — if it was so obvious that the use of an apertured film as a transfer layer would yield superior results, why didn't Perdelwitz disclose and claim this "obvious" feature? And to compound matters, Perdelwitz is concerned with improving transport properties in diapers. As one of at least ordinary skill in the art, Perdelwitz must be assumed to have been aware of the Ahr patent and the fact that Ahr could be used as a transport layer in diapers. Yet Perdelwitz failed to recognize the "obvious"? The applicant respectfully suggests otherwise. Instead the opposite conclusion is compelled — it would not have been obvious of one of ordinary skill in the art to combine Perdelwitz with Ahr as proposed by the Examiner. In sum, Ahr fails to cure the critical defect of Perdelwitz that has been identified above. Therefore, Perdelwitz, in combination with Ahr, also does not render obvious the article having the test result embodied in claim 1.

Beyond this, the applicant has unexpectedly found that an absorbent product using an apertured film transfer layer as claimed, produces unexpectedly low rewet results when compared to conventional absorbent products, particularly those that use a nonwoven transfer layer. In particular, the applicant claims an apertured film disposed between the inner layer and the absorbent core yielding a 200 mL rewet under load of less than about 1.25 grams, and a 300 mL rewet under load of less than about 4 grams, when tested according the method disclosed. For at least this additional reason, it is respectfully submitted that Perdelwitz, either alone or in combination with Ahr, fails to render claim 1 obvious. For at least these reasons, the applicant respectfully requests reconsideration and allowance of claim 1.

Claims 2-26

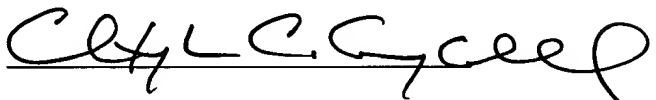
The Examiner rejected claims 2-26 as being rendered obvious by Perdelwitz in view of Ahr. Claims 2-26 depend directly from claim 1. As such, the applicant claims that for at least the same reasons listed above, claims 2-26 is also not rendered obvious

by Perdelwitz in view of Ahr. As such, the applicant respectfully requests reconsideration and allowance of claims 2-26.

CONCLUSION

For at least the reasons outlined above, the Applicant respectfully submits that the application is in condition for allowance. Favorable reconsideration and allowance of the pending claims are respectfully solicited. Should there be anything further required to place the application in better condition for allowance, Examiner Anderson is invited to contact the Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,
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